

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
ADVANTAGE MAILING LLC**

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is entered into as of February 6, 2018, between the Town of Fountain Hills, an Arizona municipal corporation (the "Town"), and Advantage Mailing LLC, a Delaware limited liability company ("Consultant").

RECITALS

A. The Town Issued a Request for Proposal, CS2017-02.3, and an Addendum to the RFP (together, the "RFP"), a copy of which is on file in the Town Clerk's Office and incorporated herein by this reference, seeking proposals from vendors for printing and mailing the Community Services Department's publication "In the Loop" (the "Services").

B. The Consultant responded to the RFP by submitting the Advantage Printing Mailing and Marketing Project Proposal and Fee Proposal ("the Proposal"), attached hereto as Exhibit "A" and incorporated herein by this reference, and the Town desires to enter into an Agreement with Consultant for the Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and Consultant hereby agree as follows:

1. Term of Agreement. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect for a period of one (1) year, until February 6, 2019 (the "Initial Term"), unless terminated as otherwise provided in this Agreement. After the expiration of the Initial Term, this Agreement may be renewed for up to four (4) successive one-year terms (each a "Renewal Term") if (i) it is deemed in the best interests of the Town, subject to availability and appropriation of funds for renewal in each subsequent year (ii) at least 30 days prior to the end of the then-current Term of this Agreement, Consultant requests, in writing (including any price adjustments approved as part of this Agreement), as evidenced by the Town Manager's signature thereon, which approval may be withheld by the Town for any reason. The Consultant's failure to seek a renewal of this Agreement shall cause this Agreement to terminate at the end of the then-current Term of this Agreement; provided, however, that the Town may, at its discretion and with the agreement of Consultant, elect to waive this requirement and renew this Agreement. The Initial Term and any Renewal Term(s) are collectively referred to herein as

the “Tern.” Upon renewal, the terms and conditions of this Agreement shall remain in full force and effect.

2. Scope of Work. Consultant shall provide the Services set forth in this Proposal attached as Exhibit “A”.

3. Compensation. The Town shall pay Consultant an amount not to exceed \$15,000.00 per year for the Services, and not to exceed \$75,000.00 over the Term of the Agreement, as set forth in the Proposal attached as Exhibit “A”.

4. Payments. The Town shall pay Consultant monthly, based upon work performed and completed to date, and upon submission and approval of invoices. All invoices shall document and itemize all work completed to date. Each invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment.

5. Documents. All documents, including any intellectual property rights thereto, prepared and submitted to the Town pursuant to this Agreement shall be the property of the Town.

6. Consultant Personnel. Consultant shall provide adequate, experienced personnel, capable of and devoted to the successful performance of the Services under this Agreement. Consultant agrees to assign specific individuals to key positions. Consultant agrees that, upon commencement of the Services to be performed under this Agreement, key personnel shall not be removed or replaced without prior written notice to the Town. If key personnel are not available to perform the Services for a continuous period exceeding 30 calendar days, or are expected to devote substantially less effort to the Services than initially anticipated, Consultant shall immediately notify the Town of same and shall, subject to the concurrence of the Town, replace such personnel with personnel possessing substantially equal ability and qualifications.

7. Inspection: Acceptance. All work shall be subject to inspection and acceptance by the Town at reasonable times during Consultant's performance. Town's inspection and acceptance of work shall in no way relieve Consultant of its obligation to perform the Services in conformance with all legal requirements. The Consultant shall provide and maintain a self-inspection system that is acceptable to the Town.

8. Licenses; Materials. Consultant shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by Consultant and will obtain a business license from the Town prior to the commencement of the Services. The Town has no obligation to provide Consultant, its employees or subcontractors any business registrations or licenses required to perform the specific services set forth in this Agreement. The Town has no obligation to provide tools, equipment or material to Consultant.

9. Performance Warranty. Consultant warrants that the Services rendered will conform to the requirements of this Agreement and with the care and skill ordinarily used by members of the same profession practicing under similar circumstances at the same time and in the same locality.

10. Indemnification. To the fullest extent permitted by law, Consultant shall indemnify and hold harmless the Town and each council member, officer, employee or agent thereof (the Town and any such person being herein called an “Indemnified Party”), for, from and against any and all losses, claims, damages, liabilities, costs and expenses (including, but not limited to, reasonable attorneys’ fees, court costs and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever (“Claims”) to the extent that such Claims (or actions in respect thereof) are caused by the negligent acts, recklessness or intentional misconduct of Consultant, its officers, employees, agents, or any tier of subcontractor in connection with Consultant’s work or services in the performance of this Agreement. The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnity in this Section.

11. Insurance.

11.1 General.

A. Insurer Qualifications. Without limiting any obligations or liabilities of Consultant, Consultant shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies authorized to do business in the State of Arizona pursuant to ARIZ. REV. STAT. § 20-206, as amended, with an AM Best, Inc. rating of A- or above with policies and forms satisfactory to the Town. Failure to maintain insurance as specified herein may result in termination of this Agreement at the Town’s option.

B. No Representation of Coverage Adequacy. By requiring insurance herein, the Town does not represent that coverage and limits will be adequate to protect Consultant. The Town reserves the right to review any and all of the insurance policies and/or endorsements cited in this Agreement, but has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Consultant from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

C. Additional Insured. All insurance coverage, except Workers’ Compensation insurance and Professional Liability insurance, if applicable, shall name, to the fullest extent permitted by law for claims arising out of the performance of this Agreement, the Town, its agents, representatives, officers, directors, officials and employees as Additional Insured as specified under the respective coverage sections of this Agreement.

D. Coverage Term. All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of this Agreement are satisfactorily performed, completed and formally accepted by the Town, unless specified otherwise in this Agreement.

E. Primary Insurance. Consultant's insurance shall be primary insurance with respect to performance of this Agreement and in the protection of the Town as an Additional Insured.

F. Claims Made. In the event any insurance policies required by this Agreement are written on a "claims made" basis, coverage shall extend, either by keeping coverage in force or purchasing an extended reporting option, for three years past completion and acceptance of the services. Such continuing coverage shall be evidenced by submission of annual Certificates of Insurance citing applicable coverage is in force and contains the provisions as required herein for the three-year period.

G. Waiver. All policies, except for Professional Liability, including Workers' Compensation insurance, shall contain a waiver of rights of recovery (subrogation) against the Town, its agents, representatives, officials, officers and employees for any claims arising out of the work or services of Consultant. Consultant shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement thereto.

H. Policy Deductibles and/or Self-Insured Retentions. The policies set forth in these requirements may provide coverage that contains deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to the Town. Consultant shall be solely responsible for any such deductible or self-insured retention amount.

I. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, Consultant shall execute written agreements with its subcontractors containing the indemnification provisions set forth in this Section and insurance requirements set forth herein protecting the Town and Consultant. Consultant shall be responsible for executing any agreements with its subcontractors and obtaining certificates of insurance verifying the insurance requirements.

J. Evidence of Insurance. Prior to commencing any work or services under this Agreement, Consultant will provide the Town with suitable evidence of insurance in the form of certificates of insurance and a copy of the declaration page(s) of the insurance policies as required by this Agreement, issued by Consultant's insurance insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages, conditions and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. Confidential information such as the policy premium may be redacted from the declaration page(s) of each insurance policy, provided that such redactions do not alter any of the information required by this Agreement. The Town shall reasonably rely upon the certificates of insurance and declaration page(s) of the insurance policies as evidence of coverage but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. If any of the policies required by this Agreement expire during the life of this Agreement, it shall be Consultant's responsibility to forward renewal certificates and declaration page(s) to the Town 30 days prior to the expiration date. All certificates of insurance and declarations required by this

Agreement shall be identified by referencing this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without a reference to this Agreement. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing this Agreement will be subject to rejection and may be returned or discarded. Certificates of insurance and declaration page(s) shall specifically include the following provisions:

(l) The Town, its agents, representatives, officers, directors, officials and employees are Additional Insured as follows:

(a) Commercial General Liability – Under Insurance Services Office, Inc., (“ISO”) Form CG 20 10 03 97 or equivalent.

(b) Auto Liability – Under ISO Form CA 20 48 or equivalent.

(c) Excess Liability – Follow Form to underlying insurance.

(1) Consultant’s insurance shall be primary insurance with respect to performance of this Agreement.

(2) All policies, except for Professional Liability, including Workers’ Compensation, waive rights of recovery (subrogation) against Town, its agents, representatives, officers, officials and employees for any claims arising out of work or services performed by Consultant under this Agreement.

(3) ACORD certificate of insurance form 25 (2014/01) is preferred. If ACORD certificate of insurance form 25(2001/08) is used, the phrases in the cancellation provision “endeavor to” and “but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives” shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

11.2 Required Insurance Coverage.

A. Commercial General Liability. Consultant shall maintain “occurrence” form Commercial General Liability insurance with an unimpaired limit of not less than \$1,000,000 for each occurrence, \$2,000,000 Products and Completed Operations Annual Aggregate and a \$2,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury. Coverage under the policy will be at least as broad as ISO policy form CG 00 010 93 or equivalent thereof, including but not limited to, separation of insured’s clause. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the Town, its agents, representatives, officers, officials and employees shall be cited as an Additional Insured

under ISO, Commercial General Liability Additional Insured Endorsement form CG 20 10 03 97, or equivalent, which shall read "Who is an Insured (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you." If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

B. Vehicle Liability. Consultant shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Consultant's owned, hired and non-owned vehicles assigned to or used in the performance of Consultant's work or services under this Agreement. Coverage will be at least as broad as ISO coverage code "1" "any auto" policy form CA 00 01 12 93 or equivalent thereof. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the Town, its agents, representatives, officers, directors, officials and employees shall be cited as an Additional Insured under ISO Business Auto policy Designated Insured Endorsement form CA 20 48 or equivalent. If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

C. Professional Liability. If this Agreement is the subject of any professional services or work, or if Consultant engages in any professional services or work in any way related to performing the work under this Agreement, Consultant shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by Consultant, or anyone employed by Consultant, or anyone for whose negligent acts, mistakes, errors and omissions Consultant is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate.

D. Workers' Compensation Insurance. Consultant shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Consultant's employees engaged in the performance of work or services under this Agreement and shall also maintain Employers Liability Insurance of not less than \$500,000 for each accident, \$500,000 disease for each employee and \$1,000,000 disease policy limit.

11.3 Cancellation and Expiration Notice. Insurance required herein shall not expire, be canceled, or be materially changed without 30 days' prior written notice to the Town.

12. Termination: Cancellation.

12.1 For Town's Convenience. This Agreement is for the convenience of the Town and, as such, may be terminated without cause after receipt by Consultant of written notice by the Town. Upon termination for convenience, Consultant shall be paid for all undisputed services performed to the termination date.

12.2 For Cause. If either party fails to perform any obligation pursuant to this Agreement and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party, such party will be in default. In the event of such default, the non-defaulting party may terminate this Agreement immediately for cause and will have all remedies that are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately (A) provides written notice to the non-defaulting party and (B) commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 90 days. In the event of such termination for cause, payment shall be made by the Town to Consultant for the undisputed portion of its fee due as of the termination date.

12.3 Due to Work Stoppage. This Agreement may be terminated by the Town upon 30 days' written notice to Consultant in the event that the Services are permanently abandoned. In the event of such termination due to work stoppage, payment shall be made by the Town to Consultant for the undisputed portion of its fee due as of the termination date.

12.4 Conflict of Interest. This Agreement is subject to the provisions of ARIZ. REV. STAT. § 38-511. The Town may cancel this Agreement without penalty or further obligations by the Town or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the Town or any of its departments or agencies is, at any time while this Agreement or any extension of this Agreement is in effect, an employee of any other party to this Agreement in any capacity or a consultant to any other party of this Agreement with respect to the subject matter of this Agreement.

12.5 Gratuities. The Town may, by written notice to Consultant, cancel this Agreement if it is found by the Town that gratuities, in the form of economic opportunity, future employment, entertainment, gifts or otherwise, were offered or given by Consultant or any agent or representative of Consultant to any officer, agent or employee of the Town for the purpose of securing this Agreement. In the event this Agreement is canceled by the Town pursuant to this provision, the Town shall be entitled, in addition to any other rights and remedies, to recover and withhold from Consultant an amount equal to 150% of the gratuity.

12.6 Agreement Subject to Appropriation. The Town is obligated only to pay its obligations set forth in this Agreement as may lawfully be made from funds appropriated and budgeted for that purpose during the Town's then current fiscal year. The Town's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of the Town concerning budgeted purposes and appropriation of funds. Should the Town elect not to appropriate and budget funds to pay its Agreement obligations, this Agreement shall be deemed terminated at the end of the then-current fiscal year term for which such funds were appropriated and budgeted for such purpose and the Town shall be relieved of any subsequent obligation under this Agreement. The parties agree that the Town has no obligation or duty of good faith to budget or appropriate the payment of the Town's obligations set forth in this Agreement in any budget in any fiscal year other than the fiscal year in which

this Agreement is executed and delivered. The Town shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement. The Town shall keep Consultant informed as to the availability of funds for this Agreement. The obligation of the Town to make any payment pursuant to this Agreement is not a general obligation or indebtedness of the Town. Consultant hereby waives any and all rights to bring any claim against the Town from or relating in any way to the Town's termination of this Agreement pursuant to this section.

13. Miscellaneous.

13.1 Independent Contractor. It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Consultant acknowledges and agrees that the Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the Town. Consultant, its employees and subcontractors are not entitled to workers' compensation benefits from the Town. The Town does not have the authority to supervise or control the actual work of Consultant, its employees or subcontractors. The Consultant, and not the Town, shall determine the time of its performance of the services provided under this Agreement so long as Consultant meets the requirements of its agreed Scope of Work as set forth in Section 2 above. Consultant is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. Town and Consultant do not intend to nor will they combine business operations under this Agreement.

13.2 Applicable Law; Venue. This Agreement shall be governed by the laws of the State of Arizona and suit pertaining to this Agreement may be brought only in courts in the Maricopa County, Arizona.

13.3 Laws and Regulations. Consultant shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom Consultant is responsible abides by, and remains in compliance with, all rules, regulations, ordinances, statutes or laws affecting the Services, including, but not limited to, the following: (A) existing and future Town and County ordinances and regulations, (B) existing and future State and Federal laws and (C) existing and future Occupational Safety and Health Administration standards.

13.4 Amendments. This Agreement may be modified only by a written amendment signed by persons duly authorized to enter into contracts on behalf of the Town and Consultant.

13.5 Provisions Required by Law. Each and every provision of law and any clause required by law to be in this Agreement will be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, this Agreement will promptly be physically amended to make such insertion or correction.

13.6 Severability. The provisions of this Agreement are severable to the extent that any provision or application held to be invalid by a Court of competent jurisdiction shall not affect any other provision or application of this Agreement which may remain in effect without the invalid provision or application.

13.7 Entire Agreement; Interpretation; Parol Evidence. This Agreement represents the entire agreement of the parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement. No representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Agreement. This Agreement shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of, or against the party drafting this Agreement. The parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in the drafting of, review of, and entry into this Agreement.

13.8 Assignment: Delegation. No right or interest in this Agreement shall be assigned or delegated by Consultant without prior, written permission of the Town signed by the Town Manager and no delegation of any duty of Consultant shall be made without prior, written permission of the Town signed by the Town Manager. Any attempted assignment or delegation by Consultant in violation of this provision shall be a breach of this Agreement by Consultant.

13.9 Subcontracts. No subcontract shall be entered into by Consultant with any other party to furnish any of the material or services specified herein without the prior written approval of the Town. The Consultant is responsible for performance under this Agreement whether or not subcontractors are used. Failure to pay subcontractors in a timely manner pursuant to any subcontract shall be a material breach of this Agreement by Consultant.

13.10 Rights and Remedies. No provision in this Agreement shall be construed, expressly or by implication, as waiver by the Town of any existing or future right and/or remedy available by law in the event of any claim of default or breach of this Agreement. The failure of the Town to insist upon the strict performance of any term or condition of this Agreement or to exercise or delay the exercise of any right or remedy provided in this Agreement, or by law, or the Town's acceptance of and payment for services, shall not release Consultant from any responsibilities or obligations imposed by this Agreement or by law, and shall not be deemed a waiver of any right of the Town to insist upon the strict performance of this Agreement.

13.11 Attorneys' Fees. In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Agreement or on account of any breach or default hereof, the prevailing party shall be entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which shall be deemed to have accrued on the commencement of such action and shall be enforced whether or not such action is prosecuted through judgment.

13.12 Liens. All materials or services shall be free of all liens and, if the Town requests, a formal release of all liens shall be delivered to the Town.

13.13 Offset.

A. Offset for Damages. In addition to all other remedies at law or equity, the Town may offset from any money due to Consultant any amounts Consultant owes to the Town for damages resulting from breach or deficiencies in performance or breach of any obligation under this Agreement.

B. Offset for Delinquent Fees or Taxes. The Town may offset from any money due to Consultant any amounts Consultant owes to the Town for delinquent fees, transaction privilege taxes and property taxes, including any interest or penalties.

13.14 Notices and Requests. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (A) delivered to the party at the address set forth below, (B) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (C) given to a recognized and reputable overnight delivery service, to the address set forth below:

If to the Town: Town of Fountain Hills
 16705 East Avenue of the Fountains
 Fountain Hills, Arizona 85268
 Attn: Grady E. Miller, Town Manager

With copy to: Dickinson Wright PLLC
 1850 N. Central Ave., Suite 1400
 Phoenix, Arizona 85004
 Attn: Fredda J. Bisman

If to Consultant: Scott Ogle
 Advantage Mailing LLC
 1600 N. Kraemer Boulevard
 Anaheim, California 92806

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (A) when delivered to the party, (B) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (C) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

13.15 Confidentiality of Records. The Consultant shall establish and maintain procedures and controls that are acceptable to the Town for the purpose of ensuring that information contained in its records or obtained from the Town or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or

employees, except as required to perform Consultant's duties under this Agreement. Persons requesting such information should be referred to the Town. Consultant also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Consultant as needed for the performance of duties under this Agreement.

13.16 Records and Audit Rights. To ensure that Consultant and its subcontractors are complying with the warranty under subsection 13.17 below. Consultant's and its subcontractors' books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any Consultant and its subcontractors' employees who perform any work or services pursuant to this Agreement (all of the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the Town, to the extent necessary to adequately permit (A) evaluation and verification of any invoices, payments or claims based on Consultant's and its subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Agreement and (B) evaluation of Consultant's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in subsection 13.17 below. To the extent necessary for the Town to audit Records as set forth in this subsection, Consultant and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the Town shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the Town to Consultant pursuant to this Agreement. Consultant and its subcontractors shall provide the Town with adequate and appropriate workspace so that the Town can conduct audits in compliance with the provisions of this subsection. The Town shall give Consultant or its subcontractors reasonable advance notice of intended audits. Consultant shall require its subcontractors to comply with the provisions of this subsection by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

13.17 E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41.4401, Consultant and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). Consultant's or its subcontractor's failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the Town.

13.18 Israel. Consultant certifies that it is not currently engaged in, and agrees for the duration of this Agreement that it will not engage in a "boycott," as that term is defined in ARIZ. REV. STAT. § 35-393, of Israel.

13.19 Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, the Scope of Work or the Fee Proposal, the documents shall govern in the order listed herein.

13.20 Non-Exclusive Contract. This Agreement is entered into with the understanding and agreement that it is for the sole convenience of the Town. The Town reserves the right to obtain like goods and services from another source when necessary.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first set forth above.

“Town”

TOWN OF FOUNTAIN HILLS,
an Arizona municipal corporation

Grady E. Miller, Town Manager

ATTEST:

Bevelyn J. Bender, Town Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On February 20, 2018, before me personally appeared Grady E. Miller, the Town Manager of the TOWN OF FOUNTAIN HILLS, an Arizona municipal corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above document, on behalf of the Town of Fountain Hills.

Notary Public

(Affix notary seal here)



[SIGNATURES CONTINUE ON FOLLOWING PAGE]

“Consultant”

Advantage Mailing LLC, a Delaware limited liability company

By: TCG

Name: _____

Title: _____

California (ACKNOWLEDGMENT)
STATE OF ~~ARIZONA~~)
Orange) ss.
COUNTY OF ~~MARICOPA~~)

On February 14, 2018, before me personally appeared Thomas C Ling,
the President of Advantage Mailing LLC, a Delaware limited liability company,
whose identity was proven to me on the basis of satisfactory evidence to be the person who
he/she claims to be, and acknowledged that he/she signed the above document, on behalf of
Advantage Mailing LLC.

Thomas J. Duchene
Notary Public

(Affix notary seal here)

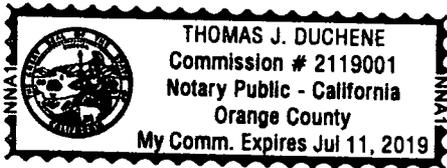


EXHIBIT A
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
ADVANTAGE INC. LLC

[Advantage Printing Mailing and Marketing Project Proposal and Fee Proposal]

See following page.



TOWN OF FOUNTAIN HILLS
COMMUNITY SERVICES DEPARTMENT

ADDENDUM NO. 1 DATED JANUARY 2, 2017
to REQUEST FOR PROPOSALS
IN THE LOOP PRINTING
RFP # CS2017-02.3 ("RFP")

Pursuant to the reservation by the Town of Fountain Hills, Arizona ("Town") of the right to amend the solicitation schedule as necessary on the cover page of the RFP and Section 1.5 of the RFP, the RFP is amended as follows:

The Proposal Due Date and Time set forth on the cover of the RFP is extended from January 15, 2018 at 3:00 p.m. (local time, Phoenix, Arizona) through **January 16, 2017 at 3:00 p.m.** (local time, Phoenix, Arizona)

The RFP remains otherwise unchanged except as amended by prior Addenda issued by the Town pursuant to Section 1.5 of the RFP.

ACKNOWLEDGEMENT OF ADDENDA

Advantage Mailings LLC acknowledges that it has/they have received the
(Proposer name)

foregoing Addendum No. 1.

Date: 1-8-2018

[Signature]
(Signature)
ACCOUNT EXECUTIVE
(Title)

ADVANTAGE MAILING LLC
1600 N. Kraemer Blvd.
Anaheim, Ca. 92806

A limited liability company, Advantage Mailing has been in business for 24 years. Our 200,000 square foot facility encompasses a total of 20 presses, an equally impressive finishing department and one of the largest mailing facilities in Southern California,

Within our company we also have an in house Graphic Department, Marketing Department, and Postal Verification Department

Advantage currently produces Parks and Recreation Activity Guides for over 40 cities. They range from San Diego to Stockton California. These city guides range in page counts from 16 pages to 64 pages and quantities from 5,000 to 160,000 copies per quarter. Included in this packet you will find a list of references of cities that are produced on a similar and comparable distribution. Contracts with these cities range from 1 to 3 years. We typically do not give out information that might be confidential to our clients. Please feel free to contact these cities they can provide you dates of contract.

References

City of Laguna Beach

Adam Gufarotti
City of Laguna Beach
Recreation Supervisor
515 Forest Avenue
Laguna Beach, Ca. 92651
(949) 497-0304
agufarotti@lagunabeachcity.net

City of Lake Forest

Marilyn Norment
Recreation Coordinator
City of Lake Forest
25550 Commercentre Dr. Suite 100
Lake Forest, Ca. 92630
(949) 461-3447
mnorment@lakeforestca.gov

City of La Mirada

Michael Tandiamav
13700 La Mirada Boulevard
La Mirada, CA 90638
(562) 902-2353
mtandiamav@cityoflamirada.org
www.cityoflamirada.org

Advantage Mailing LLC

1600 N Kraemer Blvd.

Anaheim, Ca. 92806

Advantage Mailing founded in 1993 has grown from a small mailing house to one of the largest Print and Mail facilities on the West Coast. With over 155,000 square feet, our manufacturing area contains 20 presses. They include Heat Set Web, Clod Set Web, Sheetfeds, UV roll to roll and roll to sheet, and a variety of Digital presses including the first HP12000 on the West Coast.

Advantage Mailing is a Limited Liability Corporation that employs 150 craftsmen. We have no outstanding judgments or litigation against us. Where other printers are downsizing or closing offices we have expanded this past year acquiring equipment and personal from two printers (Diversified and San Dieguito Printing) this year.

If Advantage is successful in acquiring your project, coordination between The City of Fountain Hills and Advantage will start with our Customer Service Manager (Tina Schaefer) who will assign the project to a Customer Service Representative. They will prepare the job write up, giving copies of the work order to the Planner (Larry Eddy) and Purchasing (Regina Tuazon). The CSR will also prepare a scheduling request and provide that to the scheduling manager (Scott Ogle). The planner will lay out the job (dimension, pagination, press run quantities, and finishing quantities). This information will be distributed plant wide. The planner will also provide this information to Purchasing who will allocate the paper. The Prepress Manager (Jamie Haro) will coordinate information written on job ticket with files provided from Customer Service to preflight files and prepare them for proofs. Proofs will be sent to the CSR who in turn will route them to the client for approval. Once approved the CSR will return proofs to Prepress and instruct them to go to plate. CSR will also inform scheduling of the approval of proofs. Scheduling will communicate with Pressroom Manager (Tom Leshner) on the status of the job and production time. Once job is completed on press the Finishing Manager (Reynaldo Barriga) will route the project through his department and coordinate with Shipping Manager (Victor Garcia) so job can be delivered to client's specified address.

Management Bios

Scheduling Manager /Account Executive– Scott Ogle

Scott has worked in the printing industry since 1977. He has held positions of Management in Prepress, Bindery, Quality Control, Planning, and Scheduling. He has been with Advantage since 2009.

He has 40 years of experience in the industry

Overseeing print production schedules (coordinating between sales staff/customer service representatives , purchasing, prepress, and production on press schedules).

Working with sales to project future schedules for clients

Coordinating with estimating and planning on most efficient way of running product.

Scheduling press checks for clients and sales staff

Monitoring production quality

Assembling records of production samples for finishing operations

Reviewing complicated projects requiring outside operations

Meeting with specialty finishing vendors to discuss future upcoming projects

Production quality control - inspection of production run when necessary both internally and with outside vendors to insure our level of quality

Press Manager – Tom Lesher

Tom has over 50 years of experience in Production Management. He has held the title of President for a number of printing companies at time managing facilities in multiple states. Tom has worked with most every ink company and paper supplier in the industry and has an excellent knowledge for which product provide the best results.

PrePress Manager – Jamie Haro

Jamie Haro has been with Advantage Mailing since 2012. He has held his position of Prepress Manager since 2014. His knowledge in the field spans 40 years, 27 years in the electronic MAC area and 13 years on the conventional stripping side. Jamie also has had advanced training in color correction.

Customer Service Manager – Tina Schaefer

Project Manager December 2014 – Present

Advantage Mailing Inc. - Anaheim, CA – Tom Ling (714) 538-3881

- Authoring SOPs, training materials, and reference documents for use by various departments and clientele.
- Monitoring implementation effects of new processes.
- Working to smoothly implement services to the benefit of internal and external clients.
- Researching equipment, software, and services to improve efficiency/expand offerings.
- Fostering buy in from internal/external clients through consultation and cooperation.
- Interim Customer Service Manager Since (September 2015- Present)
- Scheduling for Production Operations (6 months)
- Lead Account Manager on house account
- Communication and Negotiation of price and other concerns with Client
- Translate customer requests into/distribute Work Orders
- Coordinate with various departments
- Follow up on jobs throughout printing/production process
- Identify and eliminate possible obstacles to production of orders
- Pre-Billing of completed orders
- Coordination with various USPS, FedEx & UPS Representatives
- Training new Account Managers & Assistant Account managers
- Maintaining Mailing customer database
- Marketing research and Mailing quotes
- Setup for digital printing with variable art & data
- Consulting for Bulk mailing procedures biased on expert knowledge of the USPS DMM
- Data sortation and quality control
- Management of incoming and outgoing inventory
- Management of all outgoing UPS and FedEx (Express and Freight) shipments
- USPS FAST account & Postal Wizard management

Purchasing – Regina Tuazon

Regina Tuazon is the Purchasing Manager for Advantage Inc., Anaheim CA. Regina joined the Advantage team on January 2011. Her major responsibility is to procure paper needs for all print jobs at Advantage. She ensures that Advantage gets material on timely manner and at a competitive cost. She is also in charge of outsourcing services that cannot be in done in house. She provides support to the sales team by assisting in specifying materials to be used for printing, including specifying materials that can help the environment, help improve cost and get material to meet client's due date.

Regina has been in the Printing Industry since 1989. She has over 27 years of experience in Printing. Regina has great relationship with major mills.



**TOWN OF FOUNTAIN HILLS
COMMUNITY SERVICES DEPARTMENT**

REQUEST FOR PROPOSALS

Town of Fountain Hills
16705 East Avenue of the Fountains
Fountain Hills, Arizona 85268

SOLICITATION INFORMATION AND SELECTION SCHEDULE

Solicitation Title: **In the Loop Printing**
Solicitation Number: **CS2017-02.3**
Release Date: **December 13, 2017**
Advertisement Dates: **December 13 & 20 – Fountain Hills Times**
December 14 & 21 – Arizona Business Gazette

Final Date for Inquires **December 28, 2017**
Proposal Due Date and Time: **January 15, 2018**
3:00 p.m. (local time, Phoenix, Arizona)

Target Town Council Award Date: **February 6, 2018**
Anticipated Agreement Start Date: **February 12, 2018**

Town Representative: **Corey Povar** cpovar@fh.az.gov
480-816-5170

- * In the event that a Vendor cannot be selected based solely on Proposals submitted, Oral Interviews may be conducted at the Town's sole discretion.
- ** The Town of Fountain Hills reserves the right to amend the solicitation schedule as necessary.

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PART I. RFP PROCESS; AWARD OF AGREEMENT

1.1 Purpose; Scope of Work. The Town of Fountain Hills (the "Town") is issuing this Request For Proposals (this "RFP") seeking proposals ("Proposals") from qualified, licensed firms ("Vendors") interested in providing professional services consisting of consisting of printing and mailing 12,500 copies of our "In the Loop" publication three times a year for distribution in April, August, and December (the "Services"), as more particularly described in the Scope of Work attached to the sample Professional Services Agreement as Exhibit B, and incorporated herein by reference. In accordance with the Town's Procurement Code, the Town will accept sealed Proposals for the Services specified in the Scope of Work.

1.2 Preparation/Submission of Proposal. Vendors are invited to participate in the competitive selection process for the Services outlined in this RFP. Responding parties shall review their Proposal submissions to ensure the following requirements are met.

A. Irregular or Non-responsive Proposals. The Town shall consider as "irregular" or "non-responsive" and reject any Proposal not prepared and submitted in accordance with this RFP, or any Proposal lacking sufficient information to enable the Town to make a reasonable determination of compliance to the minimum qualifications. Unauthorized conditions, limitations, or provisions shall be cause for rejection. Proposals may be deemed non-responsive at any time during the evaluation process if, in the sole opinion of the Town Manager or authorized designee, any of the following are true:

- (1) Vendor does not meet the minimum required skill, experience or requirements to perform or provide the Services.
- (2) Vendor has a past record of failing to fully perform or fulfill contractual obligations.
- (3) Vendor cannot demonstrate financial stability.
- (4) Vendor's Proposal contains false, inaccurate or misleading statements that, in the opinion of the Town Manager or authorized designee, are intended to mislead the Town in its evaluation of the Proposal.

B. Submittal Quantities. Interested Vendors must submit **one original and four copies (five total submittals)** of the Proposal. In addition, interested parties must submit **one original copy** of the Proposal on a CD-ROM (or electronic media approved by the Town) in printable Adobe or Microsoft Word format (or other format approved by the Town). Failure to adhere to the submittal quantity criteria shall result in the Proposal being considered non-responsive.

C. Required Submittal. The Proposal shall be submitted with a cover letter with an **original ink** signature by a person authorized to bind the Vendor. Proposals submitted without a cover letter with an **original ink** signature by a person authorized to bind the Vendor shall be considered non-responsive. The Proposal shall be a maximum of fifteen pages to address the Proposal criteria (excluding resumes and the Vendor Information Form, but including the materials necessary to address project understanding, general information, organizational chart, photos, tables, graphs, and diagrams). Each page side (maximum 8 1/2" x 11") with criteria information shall be counted. However, one page may be substituted with an 11" x 17" sheet of paper, folded to 8 1/2" x 11", showing a proposed project schedule or organizational chart and only having information on one side. Cover, back, table of contents and tabs may be used and shall not be included in the page count, unless they include additional project-specific information or Proposal criteria responses. The minimum allowable font for the Proposal is **11 pt, Arial or Times New Roman**. Failure to adhere to the page limit, size and font criteria shall result in the Proposal being considered non-responsive. Telegraphic (facsimile), electronic (e-mail) or mailgram Proposals will not be considered.

D. Vendor Responsibilities. All Vendors shall (1) examine the entire RFP, (2) seek clarification of any item or requirement that may not be clear, (3) check all responses for accuracy before submitting a Proposal and (4) submit the entire Proposal by the Proposal Due Date and Time. Late Proposals will not be considered. A Vendor submitting a late Proposal shall be so notified. Negligence in preparing a Proposal shall not be good cause for withdrawal after the Proposal Due Date and Time.

E. Sealed Submittals. All Proposals shall be sealed and clearly marked with the RFP number and title, (CS3022) Fountain Lake Aeration and Circulation Upgrades, on the lower left hand corner of the mailing envelope. A return address must also appear on the outside of the sealed Proposal. The Town is not responsible for the pre-opening of, post-opening of, or the failure to open, any Proposals not properly addressed or identified.

F. Pricing. The Vendor shall submit the same number of copies of the Fee Proposal as described in Subsection 1.2(B) (Submittal Quantities) in a separate, sealed envelope enclosed with the Vendor's Proposal. Pricing shall be inclusive of all of the Services in the Scope of Work as described in the Professional Services Agreement in Exhibit B. A sample Fee Proposal is attached to the Professional Services Agreement as Exhibit C.

G. Address. All Proposals shall be directed to the following address: Town Clerk, 16705 East Avenue of the Fountains, Fountain Hills, Arizona 85268, or hand-delivered to the Town Clerk's office by the Proposal Due Date and Time indicated on the cover page of this RFP.

H. Pricing Errors. If price is a consideration and in case of error in the extension of prices in the Proposal, the unit price shall govern. Periods of time, stated as number of days, shall be calendar days.

I. Proposal Irrevocable. In order to allow for an adequate evaluation, the Town requires the Proposal to be valid and irrevocable for **90** days after the Proposal Due Date and Time indicated on the cover of this RFP.

J. Amendment/Withdrawal of Proposal. At any time prior to the specified Proposal Due Date and Time, a Vendor (or designated representative) may amend or withdraw its Proposal. Any erasures, interlineations, or other modifications in the Proposal shall be initialed in original ink by the authorized person signing the Proposal. Facsimile, electronic (e-mail) or mailgram Proposal amendments or withdrawals will not be considered. No Proposal shall be altered, amended or withdrawn after the specified Proposal Due Date and Time.

1.3 Cost of Proposal Preparation. The Town does not reimburse the cost of developing, presenting or providing any response to this solicitation. Proposals submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner. The Vendor is responsible for all costs incurred in responding to this RFP. All materials and documents submitted in response to this RFP become the property of the Town and will not be returned.

1.4 Inquiries.

A. Written Inquiries. Any question related to the RFP, including any part of the Scope of Work, shall be directed to the Town Representative whose name appears on the cover page of this RFP. Questions shall be submitted in writing by the date indicated on the cover page of this RFP. In the event the Town offices are closed on the Final Date for Inquiries, the Vendor may submit the question(s) to the Town Representative via e-mail or voicemail. Any correspondence related to the RFP shall refer to the title and number, page and paragraph. However, the Vendor shall not place the RFP number and title on the outside of any envelope containing questions, because such an envelope may be identified as a sealed Proposal and may not be opened until the Proposal Due Date and Time.

B. Inquiries Answered. Verbal or telephone inquiries directed to Town staff will not be answered. Within two business days following the Final Date for Inquiries listed on the cover page of this RFP, answers to all questions received in writing or via e-mail will be mailed, sent via facsimile and/or e-mailed to all parties who obtained an RFP package from the Town and who legibly provided a mailing address, facsimile and/or e-mail address to the Town. No questions, submitted in any form, will be answered after the Final Date for Inquiries.

C. Pre-Submittal Conference. A Pre-Submittal Conference may be held. If scheduled, the date and time of this conference will be indicated on the cover page of this RFP. This conference may be designated as mandatory or non-mandatory on the cover page of this RFP. Additionally, if the Pre-Submittal Conference is designated as mandatory, failure to attend shall render that Vendor's Proposal non-responsive. Vendors are strongly encouraged to attend those Pre-Submittal Conferences designated as non-mandatory. The purpose of this conference will be to clarify the contents of this RFP in order to prevent any misunderstanding of the Town's requirements. Any doubt as to the requirements of this RFP or any apparent omission or discrepancy should be presented to the Town at this conference. The Town will then determine if any action is necessary and may issue a written amendment or addendum to the RFP. Oral statements or instructions will not constitute amendments or addenda to this RFP.

1.5 Addenda. Any addendum issued as a result of any change in this RFP shall become part of the RFP and must be acknowledged in the Proposal submittal. Failure to indicate receipt of the addendum shall result in the Proposal being rejected as non-responsive. It shall be

the Vendor's responsibility to check for addenda issued to this RFP. Any addendum issued by the Town with respect to this RFP will be available at:

Town of Fountain Hills Town Hall,
16705 East Avenue of the Fountains, Fountain Hills, Arizona 85268
Town of Fountain Hills website at: www.fh.az.gov/for-business.aspx

1.6 Payment Requirements; Payment Discounts. Any Proposal that requires payment in less than 30 calendar days shall not be considered. Payment discounts of 30 calendar days or less will not be deducted from the Proposal Price in determining the low Proposal. The Town shall be entitled to take advantage of any payment discount offered, provided payment is made within the discount period. Payment discounts shall be indicated on Price Sheet.

1.7 Federal Excise Tax; Transaction Privilege Tax. The Town is exempt from Federal Excise Tax, including the Federal Transportation Tax. Transaction privilege tax, if any, shall be included in the unit price for each line item. It shall not be considered a lump sum payment item.

1.8 Public Record. All Proposals shall become the property of the Town and shall become a matter of public record available for review, subsequent to the award notification, in accordance with the Town's Procurement Code.

1.9 Confidential Information. If a Vendor believes that a Proposal or protest contains information that should be withheld from the public record, a statement advising the RFP Administrator of this fact shall accompany the submission and the information shall be clearly identified. The information identified by the Vendor as confidential shall not be disclosed until the Procurement Agent makes a written determination. The Procurement Agent shall review the statement and information with the Town Attorney and shall determine in writing whether the information shall be withheld. If the Town Attorney determines that it is proper to disclose the information, the RFP Administrator shall inform the Vendor in writing of such determination.

1.10 Vendor Licensing and Registration. Prior to the award of the Agreement, the successful Vendor shall be registered with the Arizona Corporation Commission and authorized to do business in Arizona. The Vendor shall provide licensure information with the Proposal. Corporations and partnerships shall be able to provide a Certificate of Good Standing from the Arizona Corporation Commission. A Town of Fountain Hills business license is also required.

1.11 Certification. By submitting a Proposal, the Vendor certifies:

A. No Collusion. The submission of the Proposal did not involve collusion or other anti-competitive practices.

B. No Discrimination. It shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246.

C. No Gratuity. It has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip favor or service to a Town employee, officer or agent in connection with the

submitted Proposal. It (including the Vendor's employees, representatives, agents, lobbyists, attorneys, and subcontractors) has refrained, under penalty of disqualification, from direct or indirect contact for the purpose of influencing the selection or creating bias in the selection process with any person who may play a part in the selection process, including the Selection Committee, elected officials, the Town Manager, Assistant Town Managers, Department Heads, and other Town staff. All contact must be addressed to the Town's Procurement Agent, except for questions submitted as set forth in Subsection 1.4 (Inquiries), above. Any attempt to influence the selection process by any means shall void the submitted Proposal and any resulting Agreement.

D. Financial Stability. It is financially stable, solvent and has adequate cash reserves to meet all financial obligations including any potential costs resulting from an award of the Agreement.

E. No Signature/False or Misleading Statement. The signature on the cover letter of the Proposal and the Vendor Information Form is genuine and the person signing has the authority to bind the Vendor. Failure to sign the Proposal and the Vendor Information Form, or signing either with a false or misleading statement, shall void the submitted Proposal and any resulting Agreement.

F. Professional Services Agreement. In addition to reviewing and understanding the submittal requirements, it has reviewed the attached sample Professional Services Agreement including the Scope of Work and other Exhibits.

1.12 Award of Agreement.

A. Selection. A Selection Committee composed of representatives from the Town will conduct the selection process according to the schedule listed on the cover page of this RFP. Proposals shall be opened at the time and place designated on the cover page of this RFP. The name of each Vendor and the identity of the RFP for which the Proposal was submitted shall be publicly read and recorded in the presence of witnesses. PRICES SHALL NOT BE READ. The Selection Committee shall award the agreement to the responsible and responsive Vendor whose Proposal is determined, in writing, to be the most advantageous to the Town and best meets the overall needs of the Town taking into consideration the evaluation criteria set forth in this RFP. The amount of applicable transaction privilege or use tax of the Town shall not be a factor in determining the most advantageous Proposal. After the Town has entered into an Agreement with the successful Vendor, the successful Proposal and the scoring documentation shall be open for public inspection.

B. Line Item Option. Unless the Proposal states otherwise, or unless otherwise provided within this RFP, the Town reserves the right to award by individual line item, by group of line items, or as a total, whichever is deemed most advantageous to the Town.

C. Multiple Award. The Town, at its sole discretion, may elect to enter into Agreements with multiple Vendors who are qualified to provide the Services. The final terms and conditions of the proposed Agreement will be negotiated by the Town with the successful offerors.

D. Form of Agreement. The selected Vendor will be required to execute the Town's standard Professional Services Agreement in a form acceptable to the Town Attorney. A sample of the standard agreement is included with this RFP. If the Town is unsuccessful in negotiating an Agreement with the highest-scoring Vendor, the Town may then negotiate with the second, then third, highest-scoring Vendor until an Agreement is executed. Town Council approval may be required. The Town reserves the right to terminate the selection process at any time.

E. Waiver; Rejection; Reissuance. Notwithstanding any other provision of this RFP, the Town expressly reserves the right to: (1) waive any immaterial defect or informality, (2) reject any or all Proposals or portions thereof and (3) cancel or reissue an RFP.

F. Protests. Any Vendor may protest this RFP, the proposed award of an Agreement, or the actual award of an Agreement. All protests will be considered in accordance with the Town Procurement Code.

1.13 Offer. A Proposal is an offer to contract with the Town based upon the terms, conditions and specifications contained in this RFP and the Vendor's responsive Proposal, unless any of the terms, conditions, or specifications are modified by a written addendum or agreement amendment. Provided, however, that no contractual relationship shall be established until the Vendor has signed, and the Town has approved, a professional services agreement between the Town and the Vendor in the form acceptable to the Town Attorney. A sample Professional Services Agreement is included herein.

PART II. PROPOSAL FORMAT; SCORING

2.1 Evaluation Process. Each submittal will be reviewed for compliance with the Proposal requirements by the Selection Committee. If necessary, the Selection Committee may conduct oral interviews with up to three of the highest ranked Vendors based upon the Proposal submittal scoring.

2.2 Proposal Format and Scoring. Proposals shall be organized and submitted in the format as outlined below. Failure to conform to the designated format, standards and minimum requirements may result in a determination that the Proposal is non-responsive. Additionally, the Selection Committee will evaluate and award points to each Proposal based upon the evaluation criteria as outlined in this document. Points listed below are the maximum number of points possible for each criteria; there is no minimum number that the Selection Committee must award.

A. General Information - 20 pts.

(1) One page cover letter as described in Subsection 1.2(C) (Required Submittal).

(2) Provide Vendor identification information. Explain the Vendor's legal organization including the legal name, address, identification number and legal form of the Vendor (e.g., partnership, corporation, joint venture, limited liability company, sole proprietorship). If a joint venture, identify the members of the joint

venture and provide all of the information required under this section for each member. If a limited liability company, provide the name of the member or members authorized to act on the company's behalf. If the Vendor is a wholly owned subsidiary of another company, identify the parent company. If the corporation is a nonprofit corporation, provide nonprofit documentation. Provide the name, address and telephone number of the person to contact concerning the Proposal.

(3) Identify the location of the Vendor's principal office and the local work office, if different. Include any documentation that supports the Vendor's authority to provide services in Arizona.

(4) Provide a general description of the Vendor's organization, including years in business.

(5) Identify any contract or subcontract held by the Vendor or officers of the Vendor that have been terminated within the last five years. Briefly describe the circumstances and the outcome.

(6) Identify any claims arising from a contract which resulted in litigation or arbitration within the last five years. Briefly describe the circumstances and the outcome.

(7) Vendor Information Form (may be attached as separate appendix).

B. Experience and Qualifications of the Vendor - 20 pts.

(1) Provide a detailed description of the Vendor's experience in providing similar services to municipalities or other entities of a similar size to the Town, specifically relating to experiences with respect to professional printing and bulk mailing publications similar to the "In the Loop".

(2) Vendor must demonstrate successful completion of at least three similar projects within the past 60 months. For the purpose of this Solicitation, "successful completion" means completion of a project within the established schedule and budget and "similar projects" resemble this project in size, nature and scope. Provide a list of at least three organizations for which you successfully completed a similar project. This list shall include, at a minimum, the following information:

- (a) Name of company or organization.
- (b) Contact name.
- (c) Contact address, telephone number and e-mail address.
- (d) Type of services provided.
- (e) Dates of contract initiation and expiration.

These references will be checked, and it is Vendor's responsibility to ensure that all information is accurate and current. Vendor authorizes the Town's representative to verify all information from these references and releases all those concerned from any liability in connection with the information they provide. Inability of

the Town to verify references shall result in the Proposal being considered non-responsive.

(3) The Town's representative may conduct any investigation deemed necessary to determine the Vendor's ability to perform the project. Vendors may be requested to submit additional documentation within 72 hours (or as specified) to assist the Town in its evaluation.

C. Key Positions - 10 pts.

(1) Identify each key personnel member that will render services to the Town including title and relevant experience required, including the proposed project manager and project staff.

(2) Indicate the roles and responsibilities of each key position. Include senior members of the Vendor only from the perspective of what their role will be in providing services to the Town.

(3) If a subcontractor will be used for all work of a certain type, include information on this subcontractor. A detailed plan for providing supervision must be included.

(4) Attach a résumé and evidence of certification, if any, for each key personnel member and/or subcontractor to be involved in this project. Résumés should be attached together as a single appendix at the end of the Proposal and will not count toward the Proposal page limit. However, each resume shall not exceed two pages in length.

D. Project Approach - 20 pts.

(1) Describe the Vendor's approach to performing the required Services in the Scope of Work described in the Professional Services Agreement in Exhibit B, and its approach to contract management, including its perspective and experience on partnering, customer service, quality control, scheduling and staff.

(2) Describe any alternate approaches if it is believed that such an approach would best suit the needs of the Town. Include rationale for alternate approaches, and indicate how the Vendor will ensure that all efforts are coordinated with the Town's Representatives.

F. Pricing - 30 pts.

Vendor shall submit the same number of copies of the Fee Proposal as described in Subsection 1.2(F) (Pricing) in a separate, sealed envelope enclosed with the Vendor's Proposal with the signature of the representative of the Vendor who is authorized to make such an offer. The Fee Proposal must be provided in the format attached as Exhibit C of the Professional Services Agreement. The Fee Proposal shall list the individual cost for each of the

program expenses and shall be provided in a spreadsheet format to enable the Town staff to determine (1) total labor hours, (2) key team member(s) proposed for each task and sub-task and (3) number of management, engineering, technical, drafting and support personnel hours proposed for the project. The hourly rate, name of the team member and staff classification shall be included in the spreadsheet. Identify all other costs to be billed to the project, including project expenses (no mark-up on expenses will be allowed) and subcontractor fees.

Total Possible Points for Proposal:

100

IV. VENDOR INFORMATION FORM

By submitting a Proposal, the submitting Vendor certifies that it has reviewed the administrative information and draft of the Professional Services Agreement's terms and conditions and, if awarded the Agreement, agrees to be bound thereto.

Advantage Mailings LLC
VENDOR SUBMITTING PROPOSAL

33-0986140
FEDERAL TAX ID NUMBER

Tore Lutz - Managing Member
PRINTED NAME AND TITLE

[Signature]
AUTHORIZED SIGNATURE

1600 N KREMER Blvd.
Ariz
ADDRESS

949 633 9090 714 632 8534
TELEPHONE FAX #

Andrew Co 92006
CITY STATE ZIP

1-8-2018
DATE

WEB SITE: ADVANTAGE INC. COM

E-MAIL ADDRESS: SOLE@ADVANTAGE INC .COM

SMALL, MINORITY, DISADVANTAGED AND WOMEN-OWNED BUSINESS ENTERPRISES (check appropriate item(s):

- Small Business Enterprise (SBE)
- Minority Business Enterprise (MBE)
- Disadvantaged Business Enterprise (DBE)
- Women-Owned Business Enterprise (WBE)

Has the Vendor been certified by any jurisdiction in Arizona as a minority or woman-owned business enterprise? NO

If yes, please provide details and documentation of the certification.

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND**

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is entered into as of _____, 2017, between the Town of Fountain Hills, an Arizona municipal corporation (the "Town") and _____, a(n) _____ (the "Consultant").

RECITALS

A. The Town issued a Request for Proposals, _____ "_____" (the "RFP"), a copy of which is on file in the Town Clerk's Office and incorporated herein by reference, seeking proposals from vendors for _____ (the "Services").

B. The Consultant responded to the RFP by submitting a proposal (the "Proposal"), attached hereto as Exhibit A and incorporated herein by reference, and the Town desires to enter into an Agreement with the Consultant for the Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and the Consultant hereby agree as follows:

1. Term of Agreement. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until _____, 2017 (the "Initial Term"), unless terminated as otherwise provided in this Agreement. After the expiration of the Initial Term, this Agreement may be renewed for up to four successive one-year terms (each, a "Renewal Term") if (i) it is deemed in the best interests of the Town, subject to availability and appropriation of funds for renewal in each subsequent year, (ii) at least 30 days prior to the end of the then-current term of this Agreement, the Consultant requests, in writing, to extend this Agreement for an additional one-year term and (iii) the Town approves the additional one-year term in writing (including any price adjustments approved as part of this Agreement), as evidenced by the Town Manager's signature thereon, which approval may be withheld by the Town for any reason. The Consultant's failure to seek a renewal of this Agreement shall cause this Agreement to terminate at the end of the then-current term of this Agreement; provided, however, that the Town may, at its discretion and with the agreement of the Consultant, elect to waive this requirement and renew this Agreement. The Initial Term and any Renewal Term(s) are collectively referred to herein as the "Term." Upon renewal, the terms and conditions of this Agreement shall remain in full force and effect.

SECTION B

**TOWN OF FOUNTAIN HILLS
COMMUNITY SERVICES DEPARTMENT**

2. Scope of Work. Consultant shall provide the Services as set forth in the Scope of Work, attached hereto as Exhibit B and incorporated herein by reference.

3. Compensation. The Town shall pay Consultant an amount not to exceed \$____.00 for the Services at the rates as set forth in the Fee Proposal, attached hereto as Exhibit C and incorporated herein by reference.

4. Payments. The Town shall pay the Consultant monthly, based upon work performed and completed to date, and upon submission and approval of invoices. All invoices shall document and itemize all work completed to date. Each invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment.

5. Documents. All documents, including any intellectual property rights thereto, prepared and submitted to the Town pursuant to this Agreement shall be the property of the Town.

6. Consultant Personnel. Consultant shall provide adequate, experienced personnel, capable of and devoted to the successful performance of the Services under this Agreement. Consultant agrees to assign specific individuals to key positions. If deemed qualified, the Consultant is encouraged to hire Town residents to fill vacant positions at all levels. Consultant agrees that, upon commencement of the Services to be performed under this Agreement, key personnel shall not be removed or replaced without prior written notice to the Town. If key personnel are not available to perform the Services for a continuous period exceeding 30 calendar days, or are expected to devote substantially less effort to the Services than initially anticipated, Consultant shall immediately notify the Town of same and shall, subject to the concurrence of the Town, replace such personnel with personnel possessing substantially equal ability and qualifications.

7. Inspection; Acceptance. All work shall be subject to inspection and acceptance by the Town at reasonable times during Consultant's performance. The Consultant shall provide and maintain a self-inspection system that is acceptable to the Town.

8. Licenses; Materials. Consultant shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the Consultant. The Town has no obligation to provide Consultant, its employees or subcontractors any business registrations or licenses required to perform the specific services set forth in this Agreement. The Town has no obligation to provide tools, equipment or material to Consultant.

9. Performance Warranty. Consultant warrants that the Services rendered will conform to the requirements of this Agreement and with the care and skill ordinarily used by members of the same profession practicing under similar circumstances at the same time and in the same locality.

10. Indemnification. To the fullest extent permitted by law, the Consultant shall indemnify, defend and hold harmless the Town and each council member, officer, employee or agent thereof (the Town and any such person being herein called an "Indemnified Party"), for,

from and against any and all losses, claims, damages, liabilities, costs and expenses (including, but not limited to, reasonable attorneys' fees, court costs and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever ("Claims"), insofar as such Claims (or actions in respect thereof) relate to, arise out of, or are caused by or based upon the negligent acts, intentional misconduct, errors, mistakes or omissions, in connection with the work or services of the Consultant, its officers, employees, agents, or any tier of subcontractor in the performance of this Agreement. The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnity in this Section.

11. Insurance.

11.1 General.

A. Insurer Qualifications. Without limiting any obligations or liabilities of Consultant, Consultant shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies authorized to do business in the State of Arizona pursuant to ARIZ. REV. STAT. § 20-206, as amended, with an AM Best, Inc. rating of A- or above with policies and forms satisfactory to the Town. Failure to maintain insurance as specified herein may result in termination of this Agreement at the Town's option.

B. No Representation of Coverage Adequacy. By requiring insurance herein, the Town does not represent that coverage and limits will be adequate to protect Consultant. The Town reserves the right to review any and all of the insurance policies and/or endorsements cited in this Agreement but has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Consultant from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

C. Additional Insured. All insurance coverage, except Workers' Compensation insurance and Professional Liability insurance, if applicable, shall name, to the fullest extent permitted by law for claims arising out of the performance of this Agreement, the Town, its agents, representatives, officers, directors, officials and employees as Additional Insured as specified under the respective coverage sections of this Agreement.

D. Coverage Term. All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of this Agreement are satisfactorily performed, completed and formally accepted by the Town, unless specified otherwise in this Agreement.

E. Primary Insurance. Consultant's insurance shall be primary insurance with respect to performance of this Agreement and in the protection of the Town as an Additional Insured.

F. Claims Made. In the event any insurance policies required by this Agreement are written on a "claims made" basis, coverage shall extend, either by keeping coverage in force or purchasing an extended reporting option, for three years past completion and acceptance of the services. Such continuing coverage shall be evidenced by submission of annual Certificates of Insurance citing applicable coverage is in force and contains the provisions as required herein for the three-year period.

G. Waiver. All policies, except for Professional Liability, including Workers' Compensation insurance, shall contain a waiver of rights of recovery (subrogation) against the Town, its agents, representatives, officials, officers and employees for any claims arising out of the work or services of Consultant. Consultant shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement thereto.

H. Policy Deductibles and/or Self-Insured Retentions. The policies set forth in these requirements may provide coverage that contains deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to the Town. Consultant shall be solely responsible for any such deductible or self-insured retention amount.

I. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, Consultant shall execute written agreements with its subcontractors containing the indemnification provisions set forth in this Section and insurance requirements set forth herein protecting the Town and Consultant. Consultant shall be responsible for executing any agreements with its subcontractors and obtaining certificates of insurance verifying the insurance requirements.

J. Evidence of Insurance. Prior to commencing any work or services under this Agreement, Consultant will provide the Town with suitable evidence of insurance in the form of certificates of insurance and a copy of the declaration page(s) of the insurance policies as required by this Agreement, issued by Consultant's insurance insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages, conditions and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. Confidential information such as the policy premium may be redacted from the declaration page(s) of each insurance policy, provided that such redactions do not alter any of the information required by this Agreement. The Town shall reasonably rely upon the certificates of insurance and declaration page(s) of the insurance policies as evidence of coverage but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. If any of the policies required by this Agreement expire during the life of this Agreement, it shall be Consultant's responsibility to forward renewal certificates and declaration page(s) to the Town 30 days prior to the expiration date. All certificates of insurance and declarations required by this Agreement shall be identified by referencing the RFP number and title of this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received

SECTION B

**TOWN OF FOUNTAIN HILLS
COMMUNITY SERVICES DEPARTMENT**

without the appropriate RFP number and title or a reference to this Agreement, as applicable. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing the appropriate RFP number and title or a reference to this Agreement, as applicable, will be subject to rejection and may be returned or discarded. Certificates of insurance and declaration page(s) shall specifically include the following provisions:

(1) The Town, its agents, representatives, officers, directors, officials and employees are Additional Insureds as follows:

(a) Commercial General Liability – Under Insurance Services Office, Inc., (“ISO”) Form CG 20 10 03 97 or equivalent.

(b) Auto Liability – Under ISO Form CA 20 48 or equivalent.

(c) Excess Liability – Follow Form to underlying insurance.

(2) Consultant’s insurance shall be primary insurance with respect to performance of this Agreement.

(3) All policies, except for Professional Liability, including Workers’ Compensation, waive rights of recovery (subrogation) against Town, its agents, representatives, officers, officials and employees for any claims arising out of work or services performed by Consultant under this Agreement.

(4) ACORD certificate of insurance form 25 (2014/01) is preferred. If ACORD certificate of insurance form 25 (2001/08) is used, the phrases in the cancellation provision “endeavor to” and “but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives” shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

11.2 Required Insurance Coverage.

A. Commercial General Liability. Consultant shall maintain “occurrence” form Commercial General Liability insurance with an unimpaired limit of not less than \$1,000,000 for each occurrence, \$2,000,000 Products and Completed Operations Annual Aggregate and a \$2,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury. Coverage under the policy will be at least as broad as ISO policy form CG 00 010 93 or equivalent thereof, including but not limited to, separation of insured’s clause. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the Town, its agents, representatives, officers, officials and employees shall be cited as an Additional Insured

under ISO, Commercial General Liability Additional Insured Endorsement form CG 20 10 03 97, or equivalent, which shall read "Who is an Insured (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you." If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

B. Vehicle Liability. Consultant shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Consultant's owned, hired and non-owned vehicles assigned to or used in the performance of the Consultant's work or services under this Agreement. Coverage will be at least as broad as ISO coverage code "1" "any auto" policy form CA 00 01 12 93 or equivalent thereof. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the Town, its agents, representatives, officers, directors, officials and employees shall be cited as an Additional Insured under ISO Business Auto policy Designated Insured Endorsement form CA 20 48 or equivalent. If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

C. Professional Liability. If this Agreement is the subject of any professional services or work, or if the Consultant engages in any professional services or work in any way related to performing the work under this Agreement, the Consultant shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Consultant, or anyone employed by the Consultant, or anyone for whose negligent acts, mistakes, errors and omissions the Consultant is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate.

D. Workers' Compensation Insurance. Consultant shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Consultant's employees engaged in the performance of work or services under this Agreement and shall also maintain Employers Liability Insurance of not less than \$500,000 for each accident, \$500,000 disease for each employee and \$1,000,000 disease policy limit.

11.3 Cancellation and Expiration Notice. Insurance required herein shall not expire, be canceled, or be materially changed without 30 days' prior written notice to the Town.

12. Termination; Cancellation.

12.1 For Town's Convenience. This Agreement is for the convenience of the Town and, as such, may be terminated without cause after receipt by Consultant of written notice by the Town. Upon termination for convenience, Consultant shall be paid for all undisputed services performed to the termination date.

12.2 For Cause. If either party fails to perform any obligation pursuant to this Agreement and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party, such party will be in default. In the event of such default, the non-defaulting party may terminate this Agreement immediately for cause and will have all remedies that are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately (A) provides written notice to the non-defaulting party and (B) commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 90 days. In the event of such termination for cause, payment shall be made by the Town to the Consultant for the undisputed portion of its fee due as of the termination date.

12.3 Due to Work Stoppage. This Agreement may be terminated by the Town upon 30 days' written notice to Consultant in the event that the Services are permanently abandoned. In the event of such termination due to work stoppage, payment shall be made by the Town to the Consultant for the undisputed portion of its fee due as of the termination date.

12.4 Conflict of Interest. This Agreement is subject to the provisions of ARIZ. REV. STAT. § 38-511. The Town may cancel this Agreement without penalty or further obligations by the Town or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the Town or any of its departments or agencies is, at any time while this Agreement or any extension of this Agreement is in effect, an employee of any other party to this Agreement in any capacity or a consultant to any other party of this Agreement with respect to the subject matter of this Agreement.

12.5 Gratuities. The Town may, by written notice to the Consultant, cancel this Agreement if it is found by the Town that gratuities, in the form of economic opportunity, future employment, entertainment, gifts or otherwise, were offered or given by the Consultant or any agent or representative of the Consultant to any officer, agent or employee of the Town for the purpose of securing this Agreement. In the event this Agreement is canceled by the Town pursuant to this provision, the Town shall be entitled, in addition to any other rights and remedies, to recover and withhold from the Consultant an amount equal to 150% of the gratuity.

12.6 Agreement Subject to Appropriation. This Agreement is subject to the provisions of ARIZ. CONST. ART. IX, § 5 and ARIZ. REV. STAT. § 42-17106. The provisions of this Agreement for payment of funds by the Town shall be effective when funds are appropriated for purposes of this Agreement and are actually available for payment. The Town shall be the sole judge and authority in determining the availability of funds under this Agreement and the Town shall keep the Consultant fully informed as to the availability of funds for this Agreement. The obligation of the Town to make any payment pursuant to this Agreement is a current expense of the Town, payable exclusively from such annual appropriations, and is not a general obligation or indebtedness of the Town. If the Town Council fails to appropriate money sufficient to pay the amounts as set forth in this Agreement during any immediately succeeding

fiscal year, this Agreement shall terminate at the end of then-current fiscal year and the Town and the Consultant shall be relieved of any subsequent obligation under this Agreement.

13. Miscellaneous.

13.1 Independent Contractor. It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Consultant acknowledges and agrees that the Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the Town. Consultant, its employees and subcontractors are not entitled to workers' compensation benefits from the Town. The Town does not have the authority to supervise or control the actual work of Consultant, its employees or subcontractors. The Consultant, and not the Town, shall determine the time of its performance of the services provided under this Agreement so long as Consultant meets the requirements of its agreed Scope of Work as set forth in Section 2 above and Exhibit B. Consultant is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. Town and Consultant do not intend to nor will they combine business operations under this Agreement.

13.2 Applicable Law; Venue. This Agreement shall be governed by the laws of the State of Arizona and suit pertaining to this Agreement may be brought only in courts in Maricopa County, Arizona.

13.3 Laws and Regulations. Consultant shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Consultant is responsible abides by, and remains in compliance with, all rules, regulations, ordinances, statutes or laws affecting the Services, including, but not limited to, the following: (A) existing and future Town and County ordinances and regulations; (B) existing and future State and Federal laws; and (C) existing and future Occupational Safety and Health Administration standards.

13.4 Amendments. This Agreement may be modified only by a written amendment signed by persons duly authorized to enter into contracts on behalf of the Town and the Consultant.

13.5 Provisions Required by Law. Each and every provision of law and any clause required by law to be in this Agreement will be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, this Agreement will promptly be physically amended to make such insertion or correction.

13.6 Severability. The provisions of this Agreement are severable to the extent that any provision or application held to be invalid by a Court of competent jurisdiction shall not affect any other provision or application of this Agreement which may remain in effect without the invalid provision or application.

13.7 Entire Agreement; Interpretation; Parol Evidence. This Agreement represents the entire agreement of the parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement. No representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Agreement. This Agreement shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of, or against the party drafting this Agreement. The parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in the drafting of, review of, and entry into this Agreement.

13.8 Assignment; Delegation. No right or interest in this Agreement shall be assigned or delegated by Consultant without prior, written permission of the Town, signed by the Town Manager. Any attempted assignment or delegation by Consultant in violation of this provision shall be a breach of this Agreement by Consultant.

13.9 Subcontracts. No subcontract shall be entered into by the Consultant with any other party to furnish any of the material or services specified herein without the prior written approval of the Town. The Consultant is responsible for performance under this Agreement whether or not subcontractors are used. Failure to pay subcontractors in a timely manner pursuant to any subcontract shall be a material breach of this Agreement by Consultant.

13.10 Rights and Remedies. No provision in this Agreement shall be construed, expressly or by implication, as waiver by the Town of any existing or future right and/or remedy available by law in the event of any claim of default or breach of this Agreement. The failure of the Town to insist upon the strict performance of any term or condition of this Agreement or to exercise or delay the exercise of any right or remedy provided in this Agreement, or by law, or the Town's acceptance of and payment for services, shall not release the Consultant from any responsibilities or obligations imposed by this Agreement or by law, and shall not be deemed a waiver of any right of the Town to insist upon the strict performance of this Agreement.

13.11 Attorneys' Fees. In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Agreement or on account of any breach or default hereof, the prevailing party shall be entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which shall be deemed to have accrued on the commencement of such action and shall be enforced whether or not such action is prosecuted through judgment.

13.12 Liens. All materials or services shall be free of all liens and, if the Town requests, a formal release of all liens shall be delivered to the Town.

13.13 Offset.

A. Offset for Damages. In addition to all other remedies at law or equity, the Town may offset from any money due to the Consultant any amounts Consultant owes to the Town for damages resulting from breach or deficiencies in performance or breach of any obligation under this Agreement.

SECTION B

**TOWN OF FOUNTAIN HILLS
COMMUNITY SERVICES DEPARTMENT**

B. Offset for Delinquent Fees or Taxes. The Town may offset from any money due to the Consultant any amounts Consultant owes to the Town for delinquent fees, transaction privilege taxes and property taxes, including any interest or penalties.

13.14 Notices and Requests. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (A) delivered to the party at the address set forth below, (B) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (C) given to a recognized and reputable overnight delivery service, to the address set forth below:

If to the Town: Town of Fountain Hills
16705 East Avenue of the Fountains
Fountain Hills, Arizona 85268
Attn: Grady E. Miller, Town Manager

With copy to: DICKINSON WRIGHT PLLC
1850 North Central Avenue, Suite 1400
Phoenix, Arizona 85004
Attn: Fredda J. Bisman

If to Consultant: _____

Attn: _____

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (A) when delivered to the party, (B) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (C) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

13.15 Confidentiality of Records. The Consultant shall establish and maintain procedures and controls that are acceptable to the Town for the purpose of ensuring that information contained in its records or obtained from the Town or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform Consultant's duties under this Agreement. Persons requesting such information should be referred to the Town. Consultant also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Consultant as needed for the performance of duties under this Agreement.

13.16 Records and Audit Rights. To ensure that the Consultant and its subcontractors are complying with the warranty under subsection 13.17 below, Consultant's and its subcontractor's books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any Consultant and its subcontractors' employees who perform any work or services pursuant to this Agreement (all of the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the Town, to the extent necessary to adequately permit (A) evaluation and verification of any invoices, payments or claims based on Consultant's and its subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Agreement and (B) evaluation of the Consultant's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in subsection 13.17 below. To the extent necessary for the Town to audit Records as set forth in this subsection, Consultant and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the Town shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the Town to Consultant pursuant to this Agreement. Consultant and its subcontractors shall provide the Town with adequate and appropriate workspace so that the Town can conduct audits in compliance with the provisions of this subsection. The Town shall give Consultant or its subcontractors reasonable advance notice of intended audits. Consultant shall require its subcontractors to comply with the provisions of this subsection by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

13.17 E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Consultant and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). Consultant's or its subcontractors' failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the Town.

13.18 Israel. Consultant certifies that it is not currently engaged in, and agrees for the duration of this Agreement that it will not engage in a "boycott," as that term is defined in ARIZ. REV. STAT. § 35-393, of Israel.

13.19 Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, the Scope of Work, any Town-approved Purchase Order, the Fee Proposal, the RFP and the Consultant's Proposal, the documents shall govern in the order listed herein.

13.20 Non-Exclusive Contract. This Agreement is entered into with the understanding and agreement that it is for the sole convenience of the Town. The Town reserves the right to obtain like goods and services from another source when necessary.

13.21 Cooperative Purchasing. Specific eligible political subdivisions and nonprofit educational or public health institutions (“Eligible Procurement Unit(s)”) are permitted to utilize procurement agreements developed by the Town, at their discretion and with the agreement of the awarded Consultant. Consultant may, at its sole discretion, accept orders from Eligible Procurement Unit(s) for the purchase of the Materials and/or Services at the prices and under the terms and conditions of this Agreement, in such quantities and configurations as may be agreed upon between the parties. All cooperative procurements under this Agreement shall be transacted solely between the requesting Eligible Procurement Unit and Consultant. Payment for such purchases will be the sole responsibility of the Eligible Procurement Unit. The exercise of any rights, responsibilities or remedies by the Eligible Procurement Unit shall be the exclusive obligation of such unit. The Town assumes no responsibility for payment, performance or any liability or obligation associated with any cooperative procurement under this Agreement. The Town shall not be responsible for any disputes arising out of transactions made by others.

13.22 Special Provisions. [Add here -- if any].

[SIGNATURES ON FOLLOWING PAGES]

SECTION B

**TOWN OF FOUNTAIN HILLS
COMMUNITY SERVICES DEPARTMENT**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first set forth above.

“Town”

TOWN OF FOUNTAIN HILLS,
an Arizona municipal corporation

Grady E. Miller, Town Manager

ATTEST:

Bevelyn J. Bender, Town Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On _____, 2017, before me personally appeared Grady E. Miller, the Town Manager of the TOWN OF FOUNTAIN HILLS, an Arizona municipal corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above document, on behalf of the Town of Fountain Hills.

Notary Public

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

EXHIBIT A
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND

[Consultant's Proposal]

See following pages.

EXHIBIT B
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND

[Scope of Work]

1. Vendor will print and mail copies for three editions of "In the Loop" publication annually.
 - a) The 12,500 copies are scheduled to hit homes mid April, August, and December.
 - b) After the proof has been approved, the printer will have roughly two weeks to get the copies mailed and delivered to homes.
2. Files will be digitally provided by the Town via email or through a website upload provided by the vendor.
3. Printing specifications:
 - a) Catalog-style publication, saddle stitched, 16-24 pages each.
 - b) Full color, 4/4 process, bleed, on 70# gloss stock.
4. Vendor will provide a hard copy proof to the Town for review and approval prior to mass production.
5. Vendor shall produce 13,000 copies of each edition.
6. Saturation mailing to roughly 12,500 addresses bundled and delivered to United States Postal Service for bulk mailing. Overages are to be delivered to Fountain Hills Town Hall.
7. Interested vendors shall submit the following information with their quotation:
 - a) A sample 4 page document that meets style and material requirements.

EXHIBIT C
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND

[Fee Proposal]

See following page(s).

PHOENIX 77018-1 414642v1



Quote

1600 N. Kraemer Blvd.
Anaheim, CA 92806

Phone: (714) 538-3881 · Fax: (714) 632-8534

Corey Povar

The Town of Fountain Hills
16705 East Ave of the Fountain
Fountain Hills, Az 95268
Ph: 480-816-5170 *Fax:*

Quote 174309.
Date December 21, 2017

Project

In the Loop Magazine - 16pp Opt
Art Supplied - Print 4/4cp 8.375 x 10.875 - 16ppSelfcover on 70# Gloss Book - Saddle Stitch - Bulk Pack - Hold for shipping

Quantity of 13,000

Services	Quantity	Setup	Rate	per	Price
**Printing - Prt 4/4 8.3x10.8 8pp HW	13,000		\$96.91	/m	\$1,259.83
**Printing - Prt 4/4 8.3x10.8 8pp HW	13,000		\$90.34	/m	\$1,174.48
**Printing - Bindery	1				\$427.80
Total Estimated Project Cost	13,000	Unit Price:	\$0.2202		<u>\$2,862.11</u>

Quotation SUBJECT to re-quote upon receipt of customer artwork, film or mail piece. Postage MUST be received prior to drop. Actual postage may vary from estimate.

Due to market conditions the paper prices included in this quotation are based on current prices, and are subject to adjustment and availability at the time the paper stock is shipped from the mill. Any price increase will be reflected with an adjustment to this proposal or on the invoice rendered to you. **Over/under run of 5%** shall constitute an acceptable delivery and be billed accordingly. Print pricing does NOT include sales tax if applicable. Prices based on the information received at the time of the quote and are subject to change upon the receipt of the artwork..

Customer Signature: _____ Submitted by: _____ Sales Rep.

Title: _____ By: _____ Authorized Officer

Dave Werline
Account Manager/Sales Rep



Quote

1600 N. Kraemer Blvd.
Anaheim, CA 92806

Phone: (714) 538-3881 · Fax: (714) 632-8534

Corey Povar

The Town of Fountain Hills
16705 East Ave of the Fountain
Fountain Hills, Az 95268

Ph: 480-816-5170

Fax:

Quote 174309.01

Date December 21, 2017

Project

In the Loop Magazine - 24pp Opt
Art Supplied - Print 4/4cp 8.375 x 10.875 - 24ppSelfcover on 70# Gloss Book - Saddle Stitch - Bulk
Pack - Hold for shipping

Quantity of 13,000

Services	Quantity	Setup	Rate	per	Price
**Printing - Prt 4/4 8.3x10.8 8pp HW	13,000		\$96.91	/m	\$1,259.83
**Printing - Prt 4/4 8.3x10.8 8pp HW	13,000		\$90.34	/m	\$1,174.48
**Printing - Prt 4/4 8.3x10.8 8pp HW	13,000		\$90.34	/m	\$1,174.48
**Printing - Bindery	1				\$427.80

Total Estimated Project Cost 13,000 **Unit Price:** \$0.3105 **\$4,036.59**

Quotation SUBJECT to re-quote upon receipt of customer artwork, film or mail piece. Postage MUST be received prior to drop. Actual postage may vary from estimate.

Due to market conditions the paper prices included in this quotation are based on current prices, and are subject to adjustment and availability at the time the paper stock is shipped from the mill. Any price increase will be reflected with an adjustment to this proposal or on the invoice rendered to you. **Over/under run of 5%** shall constitute an acceptable delivery and be billed accordingly. Print pricing does NOT include sales tax if applicable. Prices based on the information received at the time of the quote and are subject to change upon the receipt of the artwork..

Customer Signature: _____ Submitted by: _____ Sales Rep.

Title: _____ By: _____ Authorized Officer

Dave Werline

Account Manager/Sales Rep



Quote

1600 N. Kraemer Blvd.
Anaheim, CA 92806

Phone: (714) 538-3881 · Fax: (714) 632-8534

Corey Povar

The Town of Fountain Hills
16705 East Ave of the Fountain
Fountain Hills, Az 95268

Ph: 480-816-5170

Fax:

Quote 174310.01

Date December 21, 2017

Project

Simplified Mailing

List Supplied -Run List Counts - Band & Bundle -Add face Slip - Mail w/indicia from Az Post Office -
Postage Not Included - FED Ex Samples 500pcs

Quantity of 12,500

Services	Quantity	Setup	Rate	per	Price
DP EDDM/Simplified Paperwork	12,500	\$25.00	\$4.00	/m	\$75.00
Band / Bundle - Add face slip	12,500		\$5.00	/m	\$62.50
SCF/BMC Trucking	1		\$514.00	ea	\$514.00
FedEx	1		\$105.00	ea	\$105.00

Total Estimated Project Cost 12,500 **Unit Price:** \$0.0605 **\$756.50**

Quotation SUBJECT to re-quote upon receipt of customer artwork, film or mail piece. Postage MUST be received prior to drop. Actual postage may vary from estimate.

Due to market conditions the paper prices included in this quotation are based on current prices, and are subject to adjustment and availability at the time the paper stock is shipped from the mill. Any price increase will be reflected with an adjustment to this proposal or on the invoice rendered to you. **Over/under run of 5%** shall constitute an acceptable delivery and be billed accordingly. Print pricing does NOT include sales tax if applicable. Prices based on the information received at the time of the quote and are subject to change upon the receipt of the artwork..

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